

An involuntary patient may not leave the hospital without the consent of the hospital administrator. Treatment without consent by or on behalf of an involuntary patient is permitted only under carefully controlled circumstances and requires authority from the Regional Review Board. Psychosurgery, for the purpose of behaviour control, cannot be performed on involuntary patients under any circumstances.

Does the patient have the right to communicate with people outside the hospital?

Of course. The patient has the right to send and receive mail without it being opened, examined or withheld except in very special circumstances, as outlined in the Act; for example, when the contents of a communication sent to a patient would likely interfere with a patient's treatment or cause him or her unnecessary distress, or when a communication written by a patient might be unnecessarily offensive to the recipient, or prejudice the patient's best interests.

However, a patient's mail addressed to any lawyer, member of a regional or advisory review board or member of the legislature may not be opened.

What steps are taken to protect the patient's confidential records?

A new provision in the Act states that, with certain exceptions, *no person shall disclose, transmit or examine a clinical record*. In most cases disclosure is permitted only with (1) the

consent of the adult competent patient, or (2) the consent of the patient's nearest relative if the patient has not reached the age of majority or is not competent.

Other highlights:

- Exceptions to the rule of disclosure include the hospital staff involved in the patient's treatment.
- In an emergency situation, disclosure is permitted to anyone in another health care facility who is now involved in the care of a former patient.
- When records are released for research, academic study or statistics, the patient's identity must be concealed.

In fact, a new amendment protects the confidentiality of patients' records even in regard to court disclosures, unless deemed essential in the interests of justice.

Who decides if patients need help to manage their affairs?

Changes in the Act now make it possible for both in-patients and out-patients to obtain the help of the public trustee (a public official) to manage their affairs.

The physician who performs the examination, and who is of the opinion that the patient is not competent to manage his or her estate, issues a Certificate of Incompetence. The public trustee then takes over management of the patient's estate.

The patient has the right to challenge this decision once every six months through the Regional Review Board.

What are the public trustee's obligations to the patient?

The public trustee is expected to report in the same way and with the same responsibility as any trustee, guardian or committee appointed for such a purpose.

The public trustee is paid for services performed, but in cases of poverty or hardship may agree to serve without compensation.

Where can I find out more about the Mental Health Act, 1978?

This is only a short summary of the main points in the current Mental Health Act.

For a more detailed brochure, write to the Ontario Government Bookstore, 880 Bay St., Toronto M7A 1N8. Copies are also available at the main desk in psychiatric facilities throughout the province.



Ontario

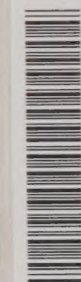
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MENTAL HEALTH AND PATIENTS' RIGHTS

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This pamphlet has been prepared as a citizen's guide to Ontario's Mental Health Act, including amendments that became law on November 1, 1978.

It's important that all of us understand our basic rights under the Act. The procedures are designed to help anyone who becomes mentally ill to recover as fully and quickly as possible.

Mental illness is one of Canada's most urgent health problems. It is also one of the most confusing areas of medicine, because symptoms and behaviour are often open to different interpretations. For this reason it is essential to have a Mental Health Act that provides clear, complete rules for physicians and other health care workers.

These rules must also be understood by those who are patients, so their rights are protected and so they understand how the health care system works on their behalf.

The following questions and answers deal with the key areas of involuntary commitment, renewal, treatment, appeal and review procedures, confidentiality of records, and the role of the public trustee.

When can a physician apply for a psychiatric assessment?

A physician can apply for a psychiatric assessment of a person if he or she has "reasonable cause to believe that the person,

- a) has threatened or attempted or is threatening or attempting to cause bodily harm to himself;
- b) has behaved or is behaving violently towards another person or has caused or is causing another person to fear bodily harm from him; or
- c) has shown or is showing a lack of competence to care for himself."

In addition, the physician must be "of the opinion that the person is apparently suffering from mental disorder of a nature or quality that likely will result in,

- d) serious bodily harm to the person;
- e) serious bodily harm to another person; or
- f) imminent and serious physical impairment of the person."

What is the physician required to do when making an Application for Assessment?

Before signing his or her name to the Application for Assessment the physician must (1) carry out an examination, (2) look into all the facts before forming an opinion, (3) set out both the facts he has observed and the facts reported to him upon which his opinion is based.

What happens once the Application for Assessment has been signed?

Anyone — relative, friend, police officer, etc. — can take the person to a psychiatric facility (using reasonable force if necessary) *where the person may be detained for assessment for not more than five days.*

Of course, where appropriate, the hospital may admit the person as an informal (voluntary) patient and disregard the Application.

At any time during these five days of observation and examination, the patient may become an "informal" (voluntary) patient, or may be discharged.

What is required to hold a patient for longer than five days?

There must be a *second* opinion by a different physician who works in the psychiatric facility. This physician must complete a Certificate of Involuntary Admission, which is authority to detain the person further, for up to two weeks.

This second opinion protects the patient and guarantees that anyone kept for more than five days will be seen by at least *two* doctors, one of whom is on the staff of a psychiatric facility.

After two weeks, a Certificate of Renewal is required if the patient is to be detained longer.

How long can a patient be held under a Certificate of Renewal?

An involuntary patient can be detained for not more than *one* additional month under a first Certificate of Renewal; *two* additional months under a second Certificate; and *three* additional months under a third or subsequent Certificate.

What routes are open to review a patient's status?

Immediately a patient becomes an involuntary patient or immediately a renewal certificate is issued, the patient, or anyone acting on a patient's behalf, may apply to a Regional Review Board to be sure the legal requirements for commitment have been met.

An application to the review board may also be made, at any time, by the Minister of Health, by the Deputy Minister, or by the officer in charge of the psychiatric facility.

In any case, the board automatically reviews the status of each patient continuously detained, at or before the end of the initial six months (plus two weeks and five days), and annually thereafter.

Each year the Advisory Review Board, chaired by a Supreme Court judge, considers the cases of all patients *detained in psychiatric facilities under Authority of a Warrant of the Lieutenant Governor under the Criminal Code.*

Any person has the right to apply for legal assistance, *for any reason.*

What are the patient's rights with respect to treatment?

Every patient — voluntary or involuntary — has the right to expect treatment and the right to expect that all his or her rights will be respected. A voluntary patient has the right to leave the hospital or to refuse treatment at any time.